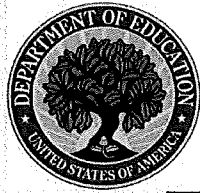


# Medicaid in Educational Settings: Regulatory Changes



**Nevada Department of  
Health and Human Services**  
Division of Health Care Financing and Policy Provider Portal

## 2013 Regulatory Changes

- Parental Consent to access public benefit or insurance (e.g. Medicaid)
- Written Notification

The Regulatory changes took effect March 18, 2013 with full implementation to take effect on July 1, 2013

Again: full implementation of these new regulations is July 1, 2013

These are Special Education Regulations for Special Education implementation, BUT it impacts the ability by LEAs to seek Medicaid reimbursement

- The changes effect Parental Consent for Medicaid reimbursement and add a Written Notification requirement.
- The changes require school districts who bill Medicaid for services to change practices as they must now provide parents with a **Written Notification** before the district continues to access Medicaid of a parent who has provided consent to release information for billing purposes.
- It requires districts to obtain from the parent who has provided consent in the past to obtain a **new ONE-TIME Parental Consent** during the 2013/2014 IEP cycle
- It requires districts to provide to parents of initial IEP students, the Written Notification **BEFORE** obtaining a **One-time Parent Consent** and **BEFORE** accessing Medicaid for the first time.

## Overview of Regulatory Changes

- Revises Local Education Agency's (LEAs) **Parental Consent** requirements **prior** to accessing the child's or parent's public benefits or insurance (e.g. Medicaid)

Throughout this presentation we will use the term "parents" however this is not to exclude the intent or understanding that it includes birth parents, adoptive parents, foster parents, legally appointed guardian or person performing the duties of a parent or surrogate parent

The regulatory changes revise the LEA's or district's Parental Consent requirements prior to accessing a child's or parent's public benefits or insurance (e.g. Medicaid)

It changes the CURRENT requirement to obtain a yearly Parental Consent before accessing Medicaid to obtaining a One-Time Parental Consent

...The final regulations change the existing Parental Consent requirements AND add a parental Written Notification requirement

## **Overview of Regulatory Changes**

- Ensures parents are **specifically informed** of all legal protections

The regulatory changes ensure that parents are specifically informed of all legal protections when a district seeks to access theirs or their child's Medicaid benefits to pay for services

The newly required Written Notification must explain all the protections available to the parents and to ensure that they are fully informed of their rights before the district accesses Medicaid to pay for services under IDEA

## **Why Regulatory Changes?**

- Addresses concerns by State Education Agencies (SEAs) and LEAs requiring yearly Parental Consent to access public benefits or insurance (e.g. Medicaid)

The changes address concerns by State educational agencies or Departments of education and local educational agencies requiring yearly Parental Consent

AND

Addresses concerns by state departments and districts regarding unnecessary costs and administrative burdens in pursuing and obtaining yearly Parental Consent

This is Good news!

## **Why Regulatory Changes?**

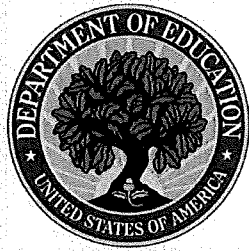
- Addresses concerns by SEAs and LEAs regarding unnecessary costs and administrative burdens

The changes address concerns by State educational agencies and local educational agencies requiring yearly parental consent

AND

Addresses concerns by state educational agencies and local educational agencies regarding unnecessary costs and administrative burdens in pursuing and obtaining yearly parental consent

# Parental Consent



**Nevada Department of  
Health and Human Services**  
Division of Health Care Financing and Policy Provider Portal

## What are the Parental Consent Regulatory Changes?

34 CFR 300.154 (d)(2)(iv)(A)-(B)

- LEAs **MUST** obtain a one-time informed written Parental Consent, after providing Written Notification, **PRIOR** to accessing a child's or parent's public benefits or insurance (e.g. Medicaid) for the first time.

The USDOE has made several significant changes to the regulations  
**It is now a one-time informed written Parental Consent**

Specifically:

The **changes added regulatory language** which clarifies the Parental Consent a public agency must obtain prior to accessing a child's or parent's public benefits or insurance for the first time.

(A)

The new Regulatory language **describes the specific elements of the written Parental Consent** that a public agency must obtain under FERPA and IDEA **before it may release for billing purposes:**)

(B)

It also requires that the one-time consent described in new regulation **must specify that the parent understands and agrees** that the public agency may access the child's or parent's public benefits or insurance to pay for services.

**What about a child whose parent has provided a consent to the district in the past to access theirs or their child's Medicaid?**

For all current IEPs beginning this IEP cycle (2013-2014 school year) – clarification?

The new ONE-TIME informed parental consent **MUST** be signed by the parent and obtained by the district.



# Nevada Parental Consent Model Form

## Nevada Model Form: Parental Consent to Access Public Benefits Parent Guardian Consent to Access Medicaid Funds and Release Personally Identifiable Information Name of Local Education Agency Address, City, State

The federal special education law, the Individuals with Disabilities Education Improvement Act 2004 (IDEA), permits school districts to seek payment from public insurance programs (e.g. Medicaid) for some services provided at school. Under the Family Education Rights and Privacy Act (FERPA), your consent is required for the school system to release information about your child to the State of Nevada Department of Health and Human Services, Division of Health Care Financing and Policy (DHCFP), its fiscal agent and the district's Medicaid billing agent in order to access your or your child's public benefits. You are entitled to a copy of any information the school system releases to the state Medicaid agency.

Section 300.151 of the Individuals with Disabilities Education Act requires that the local LEA receive your written informed consent in order to seek Medicaid reimbursement. Before you give or deny consent, please read the following:

### What Informed Parental Consent means:

I understand that submitting claims for reimbursement for services provided to my child by the district will not impact my ability to access these services for my child outside the school setting. Not will any cost be incurred by my family, including: co-pay, deductibles, loss of eligibility or impact on lifetime benefits.

I understand that my consent is voluntary and I may revoke my consent in writing at any time after it is given. If consent is revoked, the school district will no longer bill Medicaid from that date forward.

I understand that the district follows both HIPAA (federal health privacy act) and FERPA (federal education privacy act) requirements to protect any confidential information and that Medicaid funds received by the district directly support education in our district.

I understand that if I refuse consent or if I revoke this consent, the school district is still responsible to provide special education and any related services identified for my child through the special education eligibility process and that these services will be provided at NO COST to me.

### Consent from the district: Please read, initial, sign and date at the bottom:

- ☐ I understand and agree to give my consent to the district to share information about my child with the state Medicaid Agency, its fiscal agent, and the district's Medicaid billing agent. The information shared may include:
  - My child's name, date of birth, address, primary special education disability, Social Security #, Nevada Medicaid identification number, and the type and amount of health services provided.
  - Services may include assistive communication devices, anatomical supplies, disposable medical supplies, services and/or equipment provided by physical therapists, speech, hearing and language therapists, occupational therapists, psychologists, and nurses.
  - The records to be released exchanged may include Individual Education Programs (IEP), Assessment and Eligibility Records, Related Service Therapy Records and Logs, Equipment Records, and Nurse Reports.
- ☐ I do not give my consent to the district to share information about my child in order for the district to seek Medicaid reimbursement for services provided to my child.

Parent Guardian Signature: \_\_\_\_\_ Date signed: \_\_\_\_/\_\_\_\_/\_\_\_\_

Parent Guardian's Name (printed): \_\_\_\_\_

Student Child's Full Name (printed): \_\_\_\_\_ Date of Birth: \_\_\_\_/\_\_\_\_/\_\_\_\_

Parental Consent version two (2), NDE/NV Coalition, 5/2013

Here is NDE's Parental Consent Model Form

It is a one-time parental consent form that meets the newly required federal regulations

It describes the specific elements of the written parental consent that a public agency must obtain under FERPA and IDEA

- a child's personally identifiable information
- Purpose of disclosure
- Agency which disclosure may be made

It also specifies the **explicit statement that, "the parent understands and agrees that the LEA may access the parent's or child's public benefits or insurance."**

You may choose to use this form, or modify it; or

You may choose to modify your existing form by adding the statement that the parent understands and agrees that the public agency may access the child's or parent's public benefits or insurance to pay for services; or

You may choose to develop a new form that includes the statement that parent understands and agrees that the public agency may access the child's or parent's public benefits or insurance to pay for services.

Model forms can be found on NDE's website under Special Education Resources.

## Parental Consent – When?

- *July 1, 2013*
- **Starting Now...**
- Obtain the new one-time informed Parental Consent signed at initial IEP meetings
- Obtain the new one-time informed Parental Consent signed this IEP cycle (2013/2014 school year) at revisions, or annuals, or 3-year re-evaluations

New one-time parental consent **MUST** be obtained before the district accesses a child's or parent's public benefits or insurance (e.g. Medicaid) **FOR THE FIRST TIME**.  
Meaning an Initial IEP or a newly enrolled IEP student for the first time

**The timeliness of IMMEDIATELY implementing the new regulations by districts and IEP Teams impacts Child Find, single track and multi-track year round schools....again the regulations MUST be implemented on July 1.**

Reminder: the written notification **MUST** be sent or given to the parent **BEFORE** obtaining the one-time parental consent.... A way to address this is to send the Written Notification at the beginning of the school year with a cover letter stating that this is a new form in compliance with newly implemented Federal Regulations...then obtain the new **ONE-TIME** consent at the Annual IEP or revision or 3year re-eval IEP which ever comes first.

Again It is strongly recommended that the new one-time parental consent be obtained for all IEP students this 2013/2014 IEP cycle at any IEP revision, OR annual IEP, OR 3-year re-evaluation IEP.

Reminder: the written notification **MUST** be sent **BEFORE** accessing public benefits or insurance...this means before any billing in 2013/2014...

Reminder: the written notification **MUST** be sent or given **BEFORE** obtaining the one-time parental consent.

**REMEMBER: DEADLINE FOR Implementation OF THE NEW REGS IS JULY 1, 2013**

## **Reminder:**

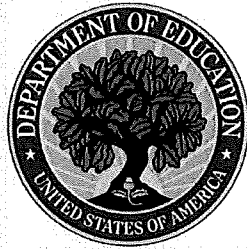
**You must provide the Written Notification PRIOR to obtaining the one-time signed Parental Consent**

### **REMEMBER:**

Written notification must be provided or sent to the parents **BEFORE** obtaining the one-time signed Parental Consent.

Written notification must be provided or sent to the parents before accessing a child's Medicaid funds beginning July 1, 2013.

# Parental Consent Questions?



## IMPORTANT POINTS TO MAKE:

Current parental forms used by the districts to release information in order to bill Medicaid do not meet the new Federal Regulations. They need to be modified or a new one developed in order to be in compliance with THE NEW Federal Regulations.

Please be mindful if your district is using an electronic IEP system as it may print out or generate a Parental Consent that is an OLD version;

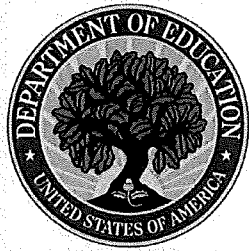
Remind your special education staff to discard it and use the New Parental Consent developed by your district..

This reminder may need to be done until the electronic IEP program is updated with the new consent.

Also, think about a way to determine how your special education staff will know which is the Old Version and which is the New Version of the parental consent

Regarding electronic Signature: "Signed and dated written consent" may include a record and signature in electronic form that: Identifies and authenticates a particular person as the source of the electronic consent AND indicates such person's approval of the information contained in the electronic consent (34 CFR 99.30)

# Written Notification



**Nevada Department of  
Health and Human Services**  
Division of Health Care Financing and Policy Provider Portal

## What are the Written Notification Regulatory Changes?

34 CFR 300.154 (d)(2)(v)

LEAs **MUST** provide written notification to the child's parents **PRIOR** to accessing a child's or parent's public benefits or insurance (e.g. Medicaid):

- for the first time, AND
- annually thereafter

**What does this mean?** A written notification containing the new regulatory language must be developed now; Starting July 1, 2013, the Written Notification must be sent or given to the child's parents both before the district can access Medicaid reimbursement for the first time.

And for children whose parents have previously given consent to the district to use their or their child's public benefits or insurance, the Written Notification **MUST** be provided or sent to the parents **BEFORE** accessing Medicaid reimbursement beginning July 1, 2013.

## Nevada Written Notification Model Form

*Nevada Model Form: Written Notification to Parents/Guardians  
To Access Public Benefits and Release Personally Identifiable Information  
(Name of Local Education Agency, Address, City, State)*

This notice informs parents of the Individuals with Disabilities Education Act of 2004 (IDEA) regulations at 34 CFR §300.154, effective March 18, 2013, regarding written notification and parent consent to access public benefits or insurance, such as Medicaid. Before the school district accesses the parent's or child's Medicaid or other publicly funded benefits for the first time to seek reimbursement for services provided to an eligible student, and annually thereafter, this written notice is provided to inform parents of the following:

- A one-time prior written parental consent will be required to release personal information from a child's education records or information about the services that may be provided for the purpose of billing Medicaid or another specific agency for Individualized Education Program (IEP) services.
- The consent form will state the student's personal education records and information that will be disclosed, the purpose of the disclosure (e.g. Medicaid billing) and the agency to which the records will be released. By consenting, parents state they understand and agree that their or their child's public benefits or insurance will be accessed to reimburse the cost of services.
  - If you have previously given consent for (insert LEA) to access your child's public benefits or insurance and to release information needed to access Nevada's Medicaid funding for services provided through your child's IEP, the school district may release the following personally identifiable information: your child's name, address, date of birth, social security #, Medicaid ID #, IEP documentation including evaluations, the dates and times of services provided by the school district, reports of your child's progress, including therapeutic notes, and program notes.
- Parents cannot be required to sign up for or enroll in public benefits or insurance programs for their child to receive free appropriate public education (FAPE), that is, IEP services.
- Parents are not required to pay out-of-pocket expenses such as a deductible or co-pay amount resulting from filing a claim.
- Parents must be informed that their public benefits or insurance (e.g., Medicaid) will not be billed if it would:
  - result in a decrease in income benefits;
  - result in the child's parent paying for services that would otherwise be covered and that are needed for the child outside of the time that child is in school;
  - result in an increase in premiums or discontinuation of public benefits or insurance; or
  - risk loss of eligibility for home and community-based services based on the total (aggregated) health-related expenditures for the child or the child's parent.
- Parents have the right to withdraw consent to disclose their child's personal information for billing purposes at any time.
- Parents' withdrawal of consent, or refusal to provide consent, to release their child's personal information for purposes of accessing their public benefits or insurance (e.g., for Medicaid billing) does not relieve the school district of its responsibility to ensure that all required IEP services are provided at NO COST to parents.

You may ask questions about this program or revoke your consent at any time by contacting:

(Name) \_\_\_\_\_ (contact information) \_\_\_\_\_

Date Notification provided to parent/guardian: \_\_\_\_/\_\_\_\_/\_\_\_\_

Method of Delivery: (check one)  
☐ Mailed to parent(s) guardian(s)  
☐ Emailed to parent(s) guardian(s)  
☐ IEP meeting

Child's full name: \_\_\_\_\_ Parent's or guardian's name (printed): \_\_\_\_\_

Date previous consent given (if applicable): \_\_\_\_/\_\_\_\_/\_\_\_\_

Written Notification version 2, NDENSHA Coalition, 5/2013

Here is NDE's Written Notification model form

You may use this form, modify or develop your own:

The notification must explain all of the protections available to parents: Specific information that must be contained in this form includes:

- A statement of parental consent provisions 300.154(d)(2)(iv)(A)-(B)
- A statement of NO COST provisions 300.154(d)(2)(i)-(iii)
- A statement that the parents have the right to withdraw their consent AT ANY TIME to disclosure of their child's personally identifiable information to the agency responsible for administration of the state's public benefits or insurance program (e.g. Medicaid)

AND

- A statement that the withdrawal of consent or refusal to provide consent to disclose personally identifiable information to the state's public benefits or insurance program agency DOES NOT relieve the public agency of its responsibility to ensure that all required IEP services are provided at NO COST to the parents

At the Bottom of the Model Form is information for case manager to fill out with regard to when the notification was sent, how it was sent...etc.

AGAIN...

The final regulations ( § 300.154(d)(2)(v)) requires that the public agency **provide this Written Notification** to the child's parents both **prior to accessing** a child's or parent's public benefits or insurance **for the first time, and annually thereafter**.

Implementation of the Written Notice Regulation is July 1, 2013



## **Ways to provide Written Notification to Parents:**

- Mailed to the parents, or
- E-mailed if requested by the parents, or
- Provided at an IEP Team meeting, or
- Provided through other means determined by LEA

Ways to provide Written Notification to parents

It can be Mailed to the parents, or

E-mailed if requested by the parents

And If this is consistent with State or LEA policies

Provided at an IEP Team meeting

**If meeting occurs prior to the first time district accesses a child's or parent's public benefits or insurance**

It can be provided through other means determined by LEA

As long as Written Notification requirements in the new regulations are met, and

If provides Written Notification prior to obtaining Parental Consent

**It is strongly advised that there is documentation in the IEP that the Written Notification was sent or given, and when it was sent or given. ( Mindful of meeting compliance and procedural safeguard requirements; maintaining documentation for audit purposes )**

## **Reminder:**

- Written Notification must contain all regulatory required elements

Remember:

The newly required Written Notification **MUST** contain all the regulatory required elements

## **Reminder:**

- Written Notification must be provided or sent **BEFORE** accessing the child's or parent's public benefits or insurance for the first time and annually thereafter

### **Remember:**

The written notification **MUST** be provided or sent the parents **BEFORE** accessing the child's or parent's public benefits or insurance for the first time and annually thereafter **AND MUST** provide or send the Written Notification to those parents who provided consent under the previous regulations **BEFORE** the district may access or continue to access the child's or parent's public benefits or insurance (Medicaid)

## Written Notification – When?

- **Full implementation begins July 1, 2013**

The written notification must be provided to the parents before the LEA may access the child's or parent's public benefits or insurance...Medicaid

Beginning NOW....For children newly enrolled for IEP services, the written notification **MUST** be given or sent to the parents **BEFORE** the one-time parental consent is obtained and **BEFORE** accessing a child's or parent's public benefits or insurance (e.g. Medicaid) for the first time.

For children who have IEPs or for whom services have previously been billed to Medicaid ...providing or sending the written notification applies beginning July 1, 2013....

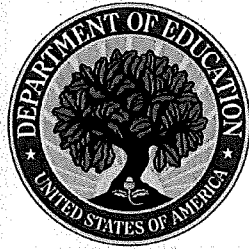
## Written Notification – When?

- Required Action:
- NOW... Notification must be sent or provided PRIOR to obtaining signed one-time consent
- Prepare to send out or provide the first Written Notification
- Provide or send the first Written Notification to the parents prior to accessing the child's or parent's public benefits or insurance

The written notification must be provided or sent to the parents before the LEA may access the child's or parent's public benefits or insurance

Beginning NOW....For children newly enrolled for IEP services, the Written Notification MUST be given to the parents BEFORE Parental Consent is obtained and before accessing a child's or parent's public benefits or insurance (e.g. Medicaid)

# Written Notification Questions?



**Nevada Department of  
Health and Human Services**  
Division of Health Care Financing and Policy Provider Portal

Remember: Written Notification is sent or given to the parents BEFORE obtaining parental consent

# Who needs to Know?

## Key Stakeholders:

- District Superintendents
- Special Education Directors
- District Medicaid staff
- Special Education Area Administrators
- Child Find Staff
- Site Administrators (principals; VP)
- Special Education Teachers
- Related Service Personnel
- Parents

This is a list of possible key stakeholders that have been identified by NDE as needing to know about the new Regulations...you may have additional stakeholders that you want to add to this list...

The key is to identify

- those individuals or groups who need to be **aware of the regulatory changes**,
- their role and responsibility with regard to the regulatory changes,
- those who need to know about
- new regulations , new documents and as they will be your implementer in obtaining the new Parental Consent to Release information to Medicaid and to
- Send the new Written Notification documents;
- Providing them with the deadline for implementing the new regulations, and
- the timeline for implementation of the new regulations

## Webinar Take-Aways

1. New Special Education Regulations for special education implementation impacting Medicaid reimbursement
2. LEAs **MUST** notify Parents in writing **BEFORE** accessing child's or parent's public benefits or insurance (e.g. Medicaid)
3. LEAs **MUST** obtain a one-time written Parental Consent that meets the new regulation requirements.
4. Implementation of new regulations: July 1, 2013
5. Regulations enforced beginning: July 1, 2013

There are 5 Key points that we want you to take away from this webinar:

1. There are new Special Education Regulations that requires special education implementation that will impact Medicaid reimbursement
2. LEA Must notify Parents in writing **BEFORE** accessing child's or parent's public benefits or insurance (e.g. Medicaid)
3. LEA Must obtain a **one-time written consent** that meets the new regulation requirements.
4. Implementation of new regulations: July 1, 2013
5. Regulations enforced beginning: July 1, 2013



## Time-line and Action Steps

- **By June 30, 2013:**
  - Create or develop **one-time Parental Consent form** that meets new 2013 Federal Regulations; **or**
  - Modify Parental Consent form that met previous Federal Regulations to meet new 2013 Federal Regulations
- **By June 30, 2013:**
  - Create or develop **Written Notification form** that meets new 2013 Federal Regulations

## **Time-line and Action Steps**

- **July 1, 2013**
- **For students with current IEPs and related services:**
  - **Begin sending or providing Written Notification to parents before accessing child's or parent's public benefits or insurance (e.g. Medicaid)**
  - **Provide or send Written Notification prior to obtaining one-time Parental Consent**
  - **Obtain new one-time Parental Consent this IEP cycle (2013/2014 School Year)**

## **Time-line and Action Steps**

- **July 1, 2013**
- **For newly IEP eligible students:**
  - Provide Written Notification before obtaining one-time Parental Consent, and before accessing child's or parent's public benefits or insurance (e.g. Medicaid)
  - Obtain new one-time Parental Consent

## **Time-line and Action Steps**

- **July 1, 2013**
- **For student's with current IEPs and related services that were not previously billed to the child's or parent's public benefits or insurance (e.g. Medicaid):**
  - **Provide written notification and obtain parental consent prior to accessing child's or parent's public benefits or insurance (e.g. Medicaid) this IEP cycle.**

## **Resources**

- Code of Federal Regulations:
  - 34 CFR 99.30
  - 34 CFR 300.154 (d)(2)(iv)(A)-(B)
  - 34 CFR 300.154 (d)(2)(v)
  - 34 CFR 300.622
- Federal Register:
  - Ref: 10525-10538 Federal Register/Vol. 78, No. 31/Thursday, February 14, 2013/Rules and Regulations

## **Resources**

- Handouts:
  - Webinar PowerPoint handouts
  - Questions and Answers (Q&A)
  - Sample Forms (2)
  - OSEP 1-page summary

## Resources

- Guidance Documents:
  - American Speech-Language-Hearing Association (ASHA)
    - IDEA Part B Issue Brief
      - [www.asha.org/Advocacy/federal/idea/IDEA-Part-B-Issue-Brief-Parental-Consent/](http://www.asha.org/Advocacy/federal/idea/IDEA-Part-B-Issue-Brief-Parental-Consent/)
  - National Alliance for Medicaid in Education (NAME)
    - April 23, 2013 OSERS email sent to State Directors of Special Education
      - [www.medicaidforeducation.org](http://www.medicaidforeducation.org)

## Resources

- Guidance Documents continued:
- Office of Special Education Programs (OSEP)
  - One-page Summary
    - [www2.ed.gov/about/offices/list/osep/policy.html](http://www2.ed.gov/about/offices/list/osep/policy.html)
  - Questions and Answers:
    - [www2.ed.gov/about/offices/list/osep/policy.html](http://www2.ed.gov/about/offices/list/osep/policy.html)
- U.S. Government Printing Office
  - Link to Federal Register
    - <http://www.gpo.gov/fdsys/pkg/FR-2013-02-14/pdf/2013-03443.pdf>



# Resources

## Websites

- Centers for Medicare and Medicaid (CMS)
  - [www.cms.gov](http://www.cms.gov)
- National Alliance for Medicaid in Education (NAME)
  - <http://www.medicaidforeducation.org/>
- Nevada Department of Health and Human Services: Division of Health Care Financing and Policy (Nevada Medicaid)
  - <https://dhcfp.nv.gov/index.htm>
- NSHA/NV Coalition to Address Personnel Shortages
  - [www.nvcoalition.com](http://www.nvcoalition.com)
- Office of Special Education and Rehabilitative Services (OSERS) and Office of Special Education Programs (OSEP)
  - <http://www2.ed.gov/about/offices/list/osers/osep/index.html>

## Resources

### Contacts:

- Nevada Department of Education
  - Lori Schwank, Education Programs Professional  
[lschwank@doe.nv.gov](mailto:lschwank@doe.nv.gov) ; 702-668-4325
- Nevada Medicaid
  - Coleen Lawrence, Chief of Program Services  
[coleenl@dhcfp.nv.gov](mailto:coleenl@dhcfp.nv.gov) 775-684-3722
- NSHA/NV Coalition to Address Personnel Shortages
  - Nancy Kuhles, NSHA/NV Coalition co-chair  
[kuhles119@sbcglobal.net](mailto:kuhles119@sbcglobal.net) ; 775-825-4886